

Edwin J. Wilson, Jr. (Bar No. 48881)
Kurt C. Wendlenner (Bar No. 238434)
WENDEL, ROSEN, BLACK & DEAN LLP
1111 Broadway, 24th Floor
Post Office Box 2047
94604-2047 Oakland, CA 94607-4036
Telephone: (510) 834-6600
Fax: (510) 834-1928

Attorneys for Defendant
Port of Oakland

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TERRY BROWN,
Plaintiff,

vs.

PORT OF OAKLAND,
Defendant.

Case No. C 08-02358SI

**NOTICE OF MOTION AND MOTION
FOR ADMINISTRATIVE RELIEF
PURSUANT TO CIVIL L.R. 7-11 AND
DECLARATION OF EDWIN J. WILSON,
JR. IN SUPPORT OF MOTION**

Courtroom: 10 – 19th Floor

TO PLAINTIFF TERRY BROWN:

PLEASE TAKE NOTICE THAT Defendant Port of Oakland hereby moves pursuant to
Civil Local Rule 7-11 as follows:

- For an Order Pursuant to Rule 26(a)(1)(A), staying the “Initial Disclosure” requirements of Rule 26(a)(1) pending the Court’s ruling on Defendant’s Motion to Dismiss and Motion for Summary Judgment and pending a further scheduling order by the Court.
- For an Order Pursuant to Rule 26(f)(1), staying the planning conference requirements of Rule 26(f) pending the Court’s further scheduling order and until such time as Defendant’s Motion to Dismiss and Motion for Summary Judgment have been decided.

The instant Motion is made on the grounds that:

- It appears on the face of the complaint, and through the action of the EEOC denying Plaintiff's charge as untimely, that Defendant's pending Motion to Dismiss and Motion for Summary Judgment will be dispositive of all claims in the action.
- Until there is a ruling on the dispositive motions, and it is determined what claims, if any will remain, it will be difficult, if not impossible, to engage in meaningful case management planning or to determine what witnesses or documents may be necessary to the defense or prosecution of the action.
- Unless the disclosure and case management requirements are stayed, both parties will be required to unnecessarily expend time and resources and/or to speculate as to what issues should be addressed.

DECLARATION OF EDWIN J. WILSON, JR.

Pursuant to Local Rule 7-11 Defendant Port of Oakland has met and conferred with plaintiff as follows.

- On July 8, 2008, Edwin J. Wilson, Jr., contacted Terry Brown, advised him of the requirements of Rule 26. Mr. Wilson requested a stipulation waiving the Initial Disclosure requirements of Rule 26(a)(1) and requesting a stay of the case planning conference required by Rule 26(f). A copy of the proposed stipulation and cover letter are attached as exhibit "A." A copy of Rule 26 was also provided to Mr. Brown.
- On July 11, 2008, Edwin J. Wilson, Jr. contacted Mr. Brown to determine whether or not he had made a decision concerning the proposed stipulation. Mr. Brown indicated that he needed more time to obtain legal assistance and indicated that he would respond to the request on or before July 16, 2008.
- On July 16, 2008, Mr. Brown was contacted by Kurt C. Wendlenner, to determine whether or not Mr. Brown had made a decision concerning the proposed

1 stipulation. Mr. Brown indicated that he had not. Mr. Wendlenner requested that
 2 Mr. Brown contact him by the close of business, July 17, 2008, with his response,
 3 one way or the other. Mr. Wendlenner indicated that absent an affirmative
 4 response, Defendant would be filing an administrative motion requesting
 5 appropriate relief.

- 6 • Mr. Brown did not respond. Under the circumstances, Defendant elected to
 7 proceed with the instant motion.

8 I declare under penalty of perjury the forgoing is true and correct. This declaration was
 9 executed in Oakland, California.

10
 11 Dated: July 18, 2008

WENDEL, ROSEN, BLACK & DEAN LLP

12
 13 By: /s/Edwin J. Wilson, Jr.

14 Edwin J. Wilson, Jr.
 15 Attorneys for Defendant
 16 Port of Oakland

